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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF ARIZONA**

**Brittany Lynn Michael**, an individual, on  
behalf of herself and all statutory beneficiaries  
of David Michael Pope, deceased,

Plaintiff,

vs.

**FCA US LLC**, a Delaware limited liability  
company,

Defendant.

No. \_\_\_\_\_

**COMPLAINT**

**Jury Trial Demanded**

Plaintiff, on behalf of herself and all statutory beneficiaries of David Michael Pope,  
submits her Complaint against Defendant FCA US LLC as follows:

**Parties**

**Plaintiff**

1. Plaintiff Brittany Lynn Michael is an individual and resident of Pima County, Arizona.

2. She is the wife of David Michael Pope, deceased.

3. David Pope passed away from injuries sustained in an automobile crash that occurred on August 5, 2021, when the 2021 RAM 5500 chassis-cab tow truck (“Vehicle”) he was driving for work crashed into an embankment in Mammoth, Arizona (the “Accident”).



4. David Pope is survived by his mother and father, his wife Brittany, and his natural daughter L.P., and his two stepchildren.

5. Brittany brings this matter on behalf of herself and all statutory beneficiaries of David Pope. These statutory beneficiaries include his wife Brittany, his daughter L.P., his parents, and his two stepchildren for whom he acted as the primary father figure.

#### **Defendant FCA US LLC**

6. Defendant FCA US LLC is a limited liability company organized under the laws of the State of Delaware. It is named herein on behalf of itself and any and all predecessor corporations or entities of FCA LLC, including but not limited to Chrysler

1 Group, LLC, and DaimlerChrysler. Defendant FCA US LLC shall hereinafter be referred to  
2 as “Chrysler.”

3 7. Based upon corporate disclosure statements filed in this Court by Defendant  
4 FCA US LLC in other matters, its parent company is FCA North America Holdings LLC,  
5 and no publicly owned company owns more than a ten percent (10%) interest in FCA US  
6 LLC.  
7

8 8. Upon further information and belief, Defendant FCA US LLC is one of several  
9 subsidiaries that were involved in the January 2021 merger of Fiat Chrysler Automobiles,  
10 N.V. and Peugeot, S.A.  
11

12 9. Upon further information and belief, the members and/or owners of Defendant  
13 FCA US LLC are citizens and residents of Michigan and/or Delaware., and none of the  
14 members or owners of Defendant FCA US LLC are citizens or residents of the State of  
15 Arizona.  
16

17 10. Defendant FCA US LLC’s principal place of business is in the State of  
18 Michigan.  
19

20 11. Defendant FCA US LLC is duly licensed and authorized to do business in the  
21 State of Arizona. Chrysler has purposefully directed business activities toward the State of  
22 Arizona.  
23

24 12. Defendant Chrysler is a manufacturer and distributor of motor vehicles,  
25 including the Vehicle at issue in this matter.

26 13. Chrysler placed the Vehicle into the stream of commerce in the ordinary  
27 course of business.  
28

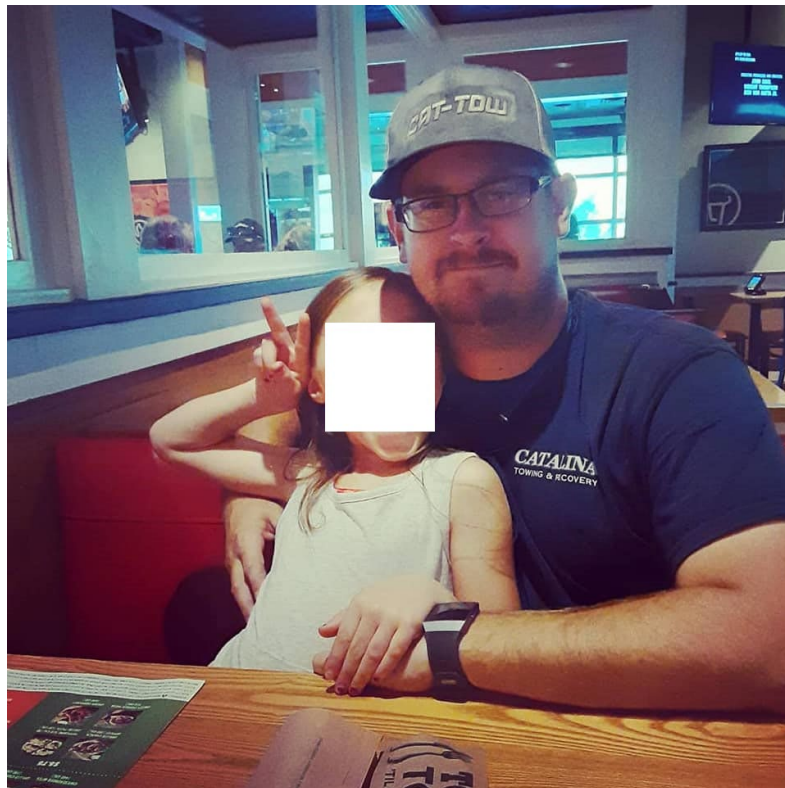


24. Upon information and belief, communications from the buyer of the Vehicle to the selling dealership originated in Pima County.

**Factual Background**

25. David Pope was 28 years old at the time of the Accident.

26. He was happily married to Plaintiff Brittany Michael, was the doting stepfather to two children, and his own biological child was just a few months from birth at the time of the Accident and his untimely death.



27. David was operating the Vehicle in his capacity as a tow truck driver for Catalina Towing & Recovery before dawn on August 5, 2021.



28. At approximately 3:20 am, David loaded a 1997 F-250 pickup truck onto the Vehicle's flatbed, secured the F-250 with chains and straps, and at 3:42 am began transporting the vehicle to its destination.

### **The Crash**

29. David was traveling southbound along State Route 77, a two-lane road, near milepost 199, in Mammoth, Arizona.

30. According to the police report, a dash camera installed inside the tow truck captured video of the Vehicle drifting left from its lane and across the center line and back into its lane, before drifting onto the right shoulder adjacent to its lane. David appeared to be fighting fatigue while driving in the seconds before the guardrail impact described below.

31. Based on police photographs taken at the scene, the RAM tow truck contacted the face of the guardrail and continued forward along it until the guardrail ended just before SR77 intersected with a side street called Cuesta Street.





32. According to the Vehicle's ACM download, David was able to apply approximately 0.5 seconds of braking before the vehicle's AMC recorded a collision event. The Vehicle collided with the steep embankment flanking the eastern shoulder of Cuesta Street after passing the end of the guardrail and Cuesta Street.

33. As the tow truck mounted the embankment, the F-250 pickup truck secured to the flatbed, which weighed over 4,000 pounds, moved forward into the passenger compartment while the floorboards were simultaneously pushed upward.



34. David was killed in the accident. His body had been trapped in the cab of the tow truck, still in the driver's seat with his seat belt fastened.

35. Oracle and Golder Ranch Fire Departments extricated David from the truck and his body was transported to the Pima County Office of the Medical Examiner.

36. David died from multiple blunt force trauma.

### Crash Avoidance Technologies Prevent Accidents

37. Driver inattention and drowsiness is a leading cause of automobile accidents.

38. A study by the AAA Foundation for Traffic Safety estimates that 328,000 drowsy driving crashes occur annually.<sup>1</sup>

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<sup>1</sup> National Safety Council website, Safety Topics, Fatigued Driving (2022) <https://www.nsc.org/road-safety/safety-topics/fatigued-driving>



1           39.     Approximately 6,400 of those 328,000 crashes are fatal, though research  
2 suggests drowsy driving fatalities may be more than 350% greater than what is reported *Id.*

3           40.     The three most common factors associated with drowsy-driving crashes are:  
4 they occur most frequently between midnight and 6am; they involve a single driver at a  
5 higher rate of speed and without evidence of braking; and they frequently occur on rural  
6 roads and highways.<sup>2</sup>

7  
8           41.     All three factors mentioned above occurred in this crash prior to the guardrail  
9 contact; evidence of braking was obtained from the Vehicle's download.

10  
11           42.     The National Safety Council recommends new and existing crash avoidance  
12 technologies to reduce drowsy driving including lane departure warnings and drowsiness  
13 alert *Id.*

14  
15           43.     In 2021, Chrysler, through its vehicle brands of Chrysler, Dodge, Fiat, Jeep,  
16 and RAM, offered numerous crash avoidance technologies, including lane departure systems  
17 and drowsy driver detection, on many of its vehicles.<sup>3</sup>

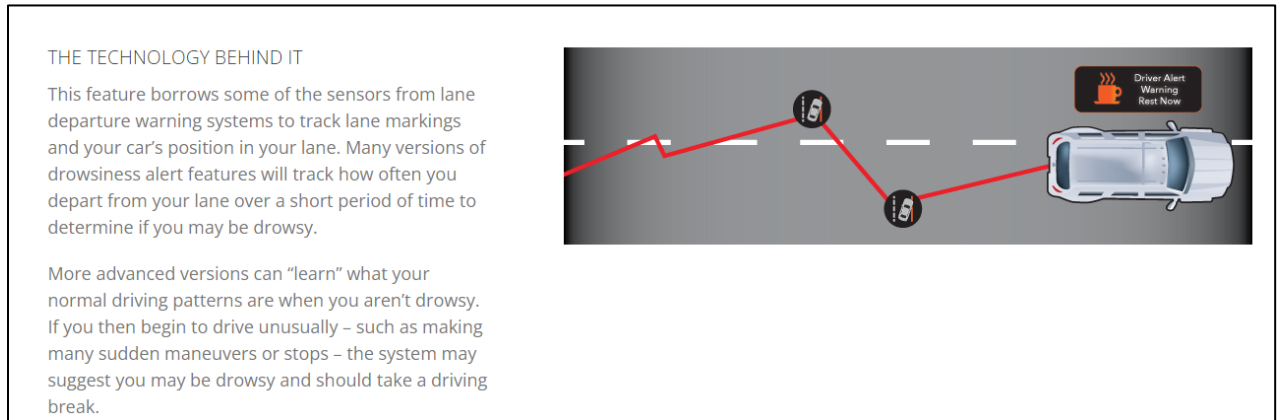
18           44.     When a drowsiness alert system, including drowsy driver detection, suspects  
19 the driver is drowsy, it alerts the driver. It can provide a variety of types of alerts including  
20 an audio alert, and a visual message on the dashboard that instructs the driver to take a break.  
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25           2     NHTSA website, Drowsy Driving (2022) [https://www.nhtsa.gov/risky-](https://www.nhtsa.gov/risky-driving/drowsy-driving)  
26 [driving/drowsy-driving](https://www.nhtsa.gov/risky-driving/drowsy-driving)

27           3     Three Rivers Chrysler Jeep Dodge website, Safety Technologies of the Wagoneer  
28 (2022) <https://www.threeriverschryslerjeepdodge.net/safety-technologies-of-the-wagoneer>

45. Some drowsiness alert systems come with haptic alerts which vibrate the steering wheel and/or seat to alert drivers.<sup>4</sup>



46. Driver drowsiness detection has already been successful on the market for many years.<sup>5</sup>

47. Some advanced versions of drowsiness alert systems, or driver monitoring systems, also have an integrated camera inside the vehicle near the steering wheel which can detect drooping eyelids and head bobs. *Id.*

48. One of the many benefits of the driver drowsiness detection systems is that it is a purely software solution which does not need additional sensors, other than the steering angle sensor for those equipped, allowing it to be easily integrated into existing vehicle platforms *Id.*

<sup>4</sup> My Car Does What.org website, Drowsiness Alert <https://mycardoeswhat.org/safety-features/drowsiness-alert/>

<sup>5</sup> Bosch website, Interior Monitoring Systems (2022) <https://www.bosch-mobility-solutions.com/en/solutions/interior/interior-monitoring-systems/>

## Driver drowsiness detection based on the driver's steering behavior

The driver's steering behavior is an indicator for the onset of drowsiness. The driver drowsiness detection is based on an algorithm, which analyzes the driver's steering behavior during the trip based on information from the steering-angle sensor. It recognizes changes over the course of long trips, and thus also the driver's level of fatigue. Even small changes in the steering behavior that are barely noticeable to the driver are typical signs of waning concentration. Based on the frequency of these movements and other parameters, among them the length of a trip, use of turn signals, and the time of day, the function calculates the driver's level of fatigue. If that level exceeds a certain value, an icon such as a coffee cup flashes on the instrument panel to warn drivers that they need a rest.

The driver drowsiness detection has been successful on the market for years already. It is a pure software solution without the need for additional sensors other than the steering-angle sensor. Thus it can easily be integrated into existing vehicle platforms. The function is suitable to meet the emerging legal requirements.



49. Camera-based interior driver monitoring systems can detect driver distraction, drowsiness, and microsleeps by monitoring the alertness and condition of the driver and can alert the driver in time *Id.*

50. Jeep, one of the automobile brands manufactured by Chrysler, offered Drowsy Driver Detection standard on the Jeep Grand Cherokee Summit.<sup>6</sup>

**Drowsy Driver Detection** tracks vehicle movement, such as lane deviation, and interaction, such as steering-wheel input over time, for driving behavior consistent with that of a drowsy driver. When certain thresholds are reached, the system responds with audio and/or visual cautions for the driver to pull over. The feature comes standard on Summit models.

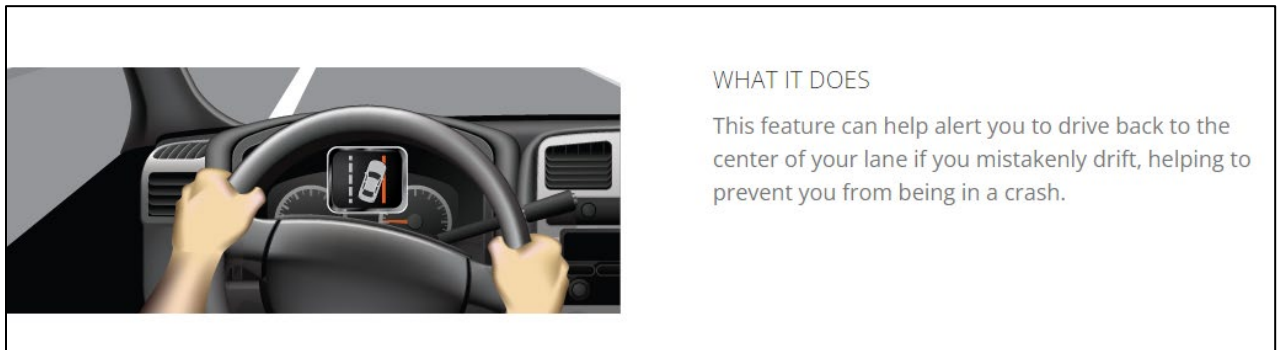
51. In addition to the drowsy driver monitoring safety features, drowsy driving can also be addressed through systems like lane departure warning and automatic emergency braking.<sup>7</sup>

<sup>6</sup> <https://www.media.stellantis.com/me-en/jeep/press/all-new-2021-jeep-grand-cherokee-breaks-new-ground-in-the-suv-segment>

<sup>7</sup> NHTSA website, Documents, Drowsy Driving Asleep at the Wheel [https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/12723-drowsy\\_driving\\_asleep\\_at\\_the\\_wheel\\_031917\\_v4b\\_tag.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/12723-drowsy_driving_asleep_at_the_wheel_031917_v4b_tag.pdf)

52. Lane Departure warning systems can help sleepy or distracted drivers.<sup>8</sup>

53. Lane Departure systems use sensors and forward-facing cameras to track a vehicle's position within lane markings, providing visual, audio, and/or haptic alerts when the driver departs the lane without signaling, or when the driver departs the lane in a direction different than what he signaled.<sup>9</sup>



54. Lane Departure Warning (LDW) provides drivers with audible and/or visual alerts when their vehicle crosses lane markings without activating a turn signal *Id.*

55. Lane Keeping Assist (LKA) provides drivers with similar warnings to LDW, but LKA can provide automatic steering and/or braking to keep a vehicle within its lane. *Id.*

56. Lane Centering Assist (LCA) continuously centers the vehicle in its lane by providing drivers with automatic steering and/or braking *Id.*

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<sup>8</sup> Consumer Reports website, Automotive Technology, Car Safety Systems That Could Save Your Life (2019) <https://www.consumerreports.org/automotive-technology/car-safety-systems-that-could-save-your-life/>

<sup>9</sup> Consumer Reports website, Car Safety, Lane Departure Warning Lane Keep Assist Guide (2019) <https://www.consumerreports.org/car-safety/lane-departure-warning-lane-keeping-assist-guide-a7087080070/>

57. Road Departure Assist (RDA) keeps a vehicle from departing the roadway by automatic steering and/or braking *Id.*

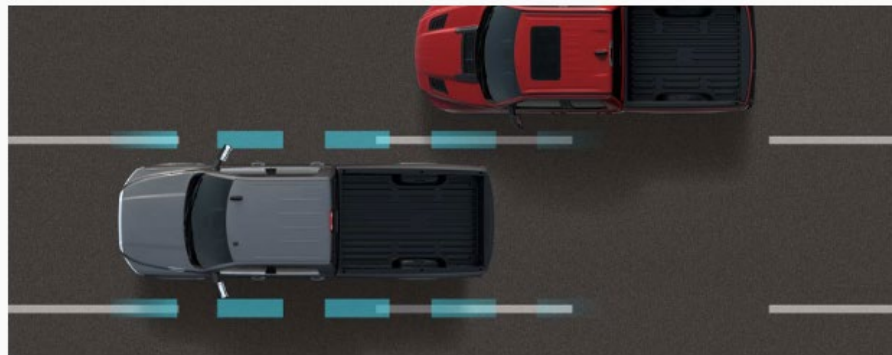
58. If the Vehicle had been equipped with a lane departure system, when David first crossed over the center line, alerts would have activated and, if David did not promptly respond with steering, it would automatically steer him back to his lane.

59. On the 2021 RAM 5500, Chrysler offer a lane departure system called LaneSense Lane Departure Warning Plus as an available safety feature.

#### What Is the LaneSense Lane Departure Warning?

LaneSense Lane Departure Warning is a safety feature that was added to RAM models for 2019 and later. LaneSense Lane Departure Warning uses sensors and a forward-facing camera to keep your truck safely in its proper lane. Suppose the system detects that you are making a sudden lane change without using your turn signals properly. In that case, it will automatically gently correct the truck's steering mechanism to keep your RAM in the original lane.

The camera in the lane departure system prevents the truck from drifting by detecting the vehicle's position in the lane and maintaining that position with lane markers' assistance. The RAM's lane departure avoidance system gets even more sophisticated with the use of electronic power steering, which uses torque power to correct the truck's position if it moves out of its lane.





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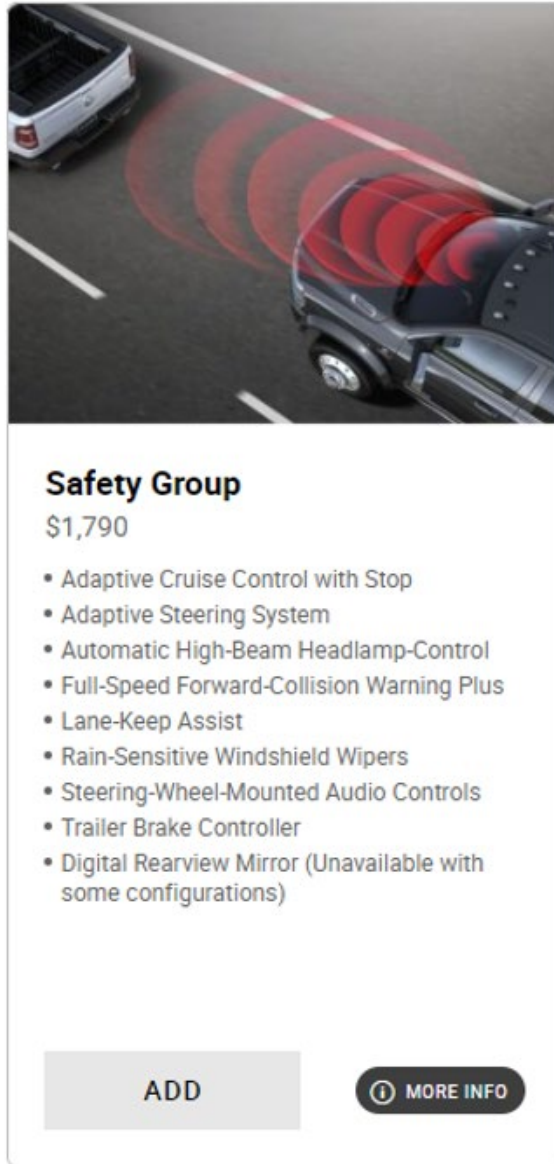
1           60.     The LaneSense system provides a haptic warning through the steering wheel,  
2 an audible warning, and a visual warning in the instrument cluster.<sup>10</sup>

3           61.     Chrysler offered a “Safety Group” option for the 2021 RAM 5500 which  
4 included “Lane-Keep Assist,” a feature which provided not only an alert but active measures  
5 to keep the vehicle in its lane.  
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7           62.     Chrysler offered this feature for an additional cost of \$1,790.  
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27           10     2021 RAM Chassis Cab Owner’s Manual  
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63. Wherever in this Complaint the term LaneSense is used, it is meant to include but not be limited to Lane-Keep Assist.

64. The Vehicle did not have a drowsy driver alert system, a driver monitoring system, or a lane departure system. If the Vehicle had one or all such systems, either the Vehicle itself or David would have prevented the Vehicle from drifting out of its lane and prevented the crash that killed David Pope.

**Claims for Relief**

**Count 1**

**Strict Liability – Design Defect**

65. Plaintiff incorporates the foregoing paragraphs as fully set forth herein.

66. Defendant FCA US LLC is liable to Plaintiff because of the defective and unreasonably dangerous design of the 2021 RAM 5500, specifically, FCA US LLC's failure to install technologically and financially feasible vehicle collision avoidance technologies and safety features.

67. Defendant FCA US LLC owed and owes the consuming public and those using its vehicles a duty to add safety features to vehicles when the benefits of those features outweigh the harmful characteristics or consequences of the design that includes the safety features.

68. The 2021 RAM 5500 was intrinsically defective and unreasonably dangerous due to its above-average size, including its increased height and weight compared to most other vehicles that use roadways in the United States and the world, and Chrysler's failure to install driver assistance technologies they had available, and which are proven to avoid crashes.

69. The harmful characteristics and/or consequences of the 2021 RAM 5500's design that does not include lane departure prevention and/or driver monitoring systems discussed in this Complaint outweighed the benefits, if any, of the 2021 RAM 5500 design that does not use the lane departure prevention and/or driver monitoring systems.

70. The 2021 RAM 5500 was defective and unreasonably dangerous due to the lack of the following features intended to prevent crashes:

1 a. Lane Departure Systems

2 b. Driver Monitoring Systems/Drowsy Driver Detection

3 71. It was financially feasible for Chrysler to install LaneSense as a standard  
4 feature for all trim levels of the 2021 RAM 5500.  
5

6 72. It was technologically feasible for Chrysler to install LaneSense as a standard  
7 feature for all trim levels of the 2021 RAM 5500.

8 73. Chrysler included the LaneSense feature as an option on the 2021 RAM 5500  
9 as part of a safety package called “The Safety Group” which could be purchased for an  
10 additional \$1,700.  
11

12 74. The benefits of installing LaneSense on the 2021 RAM 5500 outweighed any  
13 harmful characteristics and/or consequences, if any, from installing LaneSense on the 2021  
14 RAM 5500.  
15

16 75. It was financially feasible for Chrysler to install Driver Monitoring Systems  
17 and/or Drowsy Driver Detection as a standard feature for all trim levels of the 2021 RAM  
18 5500.  
19

20 76. It was technologically feasible for Chrysler to install Driver Monitoring  
21 Systems and/or Drowsy Driver Detection as a standard feature for all trim levels of the 2021  
22 RAM 5500.

23 77. Jeep, another of FCA US LLC’s vehicle brand names, offered Drowsy Driver  
24 Detection as a standard feature on its 2021 Grand Cherokee Summit model, evidencing they  
25 had this technology and could have offered it in their RAM brand vehicles.  
26  
27  
28

79. Reasonable consumers expect that automobile manufacturers make technically and financially feasible lifesaving features standard on vehicles, and not made available only in upper trim levels and/or as part of expensive options packages.

81. As a direct and proximate result of Defendant FCA US LLC's negligent development and use and dangerous and defective design of the 2021 RAM 5500, David Pope died. Plaintiff and the other statutory beneficiaries have sustained and will continue to sustain extreme grief, emotional distress, economic damages, loss of consortium, and loss of enjoyment of life as a result of the death of David Pope.

## Negligence

84. Defendant FCA US LLC knew, or should have known, that large, heavy vehicles are at a higher risk of serious injury or death when involved in collisions.



86. Defendant FCA US LLC knew, or should have known, that it could have eliminated, or at least mitigated, the defectiveness and dangerous propensity of the vehicle by adding the following safety features:

87. As a direct and proximate result of Defendant FCA US LLC's negligent development and use and dangerous and defective design of the 2021 RAM 5500 without installing Lane Departure Systems and/or Driver Monitoring/Drowsy Driver Monitoring Systems, David Pope died.

88. Plaintiff and the other statutory beneficiaries have sustained and will continue to sustain extreme grief, emotional distress, economic damages, loss of consortium, and loss of enjoyment of life as a result of the death of David Pope.

## Wrongful Death

90. As a direct result of the wrongful conduct by Defendant FCA US LLC as alleged herein, David Pope died.

91. Plaintiff has experienced extreme grief, emotional distress, loss of consortium, loss of enjoyment of life, and economic damages as a result of David Pope's death. The

1 sudden and violent nature of David's death further exacerbated Plaintiff's grief and  
2 emotional distress.

3 92. Plaintiff Brittany Michael and David Pope were married and were expecting  
4 their first child together at the time of David's death. Brittany was approximately six months  
5 pregnant when David died.  
6

7 93. Brittany is left to raise their child alone, without the love, support, guidance  
8 and economic support from her husband.  
9

10 94. David had become a loving stepfather to Brittany's two children, and they  
11 were bonded. David considered them family and they mourn his death. They suffered  
12 significant and meaningful loss as a result of the death of their sole father figure.  
13

14 95. The children's grief contributes to Brittany's emotional distress as she holds  
15 her family together without David.

16 96. Brittany relied upon David's income to support their family. Brittany  
17 struggles to make ends meet financially on her own, especially with a new baby and while  
18 coping with the loss of her husband.  
19

20 97. David's child L.P. began her life without the benefit and support of her  
21 biological father.

22 98. All of David's statutory beneficiaries have experienced grief, emotional  
23 distress, and/or economic loss as a result of David's untimely death.  
24

25 99. Pursuant to Arizona revised Statutes § 12-611, et seq., the surviving spouse of  
26 David Pope, Brittany Michael, is entitled to maintain an action for wrongful death against  
27 Defendants in this matter for the loss of her husband.  
28

## Prayer for Relief

21

DATED this 25th day of May, 2022.

SHUMWAY LAW PLLC

/s/ G Lynn Shumway  
G. Lynn Shumway

and

GHELFI LAW GROUP PLLC  
Brent Ghelfi

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